

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION VII

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BEFORE THE ADMINISTRATOR

ENVIRONMENTAL PROTECTION  
AGENCY-REGION VII  
REGIONAL HEARING CLERK

In the Matter of )

University Courts Limited Partnership )  
and )

Herman Slade )

Respondents )

Docket No. TSCA-07-2004-0136

**CONSENT AGREEMENT AND FINAL ORDER**

The United States Environmental Protection Agency, Region VII (EPA or Complainant) and University Courts Limited Partnership and Herman Slade (Respondents) have agreed to a settlement of this action before filing of a complaint, and thus this action is simultaneously commenced and concluded pursuant to Rules 22.13(b) and 22.18(B)(2) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits (Consolidated Rules), 40 C.F.R. §§ 22.13(b) and 22.18(b)(2).

**FACTUAL ALLEGATIONS**

**Jurisdiction**

1. This is an administrative action for the assessment of civil penalties instituted pursuant to Section 16(a) of the Toxic Substances Control Act (TSCA), 15 U.S.C. § 2615(a).
2. This Consent Agreement and Final Order serves as notice that EPA has reason to believe that Respondents have violated Section 409 of TSCA, 15 U.S.C. § 2689, by failing to comply with the regulatory requirements of 40 C.F.R. Part 745, Subpart F, *Disclosure of Known*

*Lead-Based Paint and/or Lead-Based Paint Hazards Upon Sale or Lease of Residential Property*, promulgated pursuant to Section 1018 of the Residential Lead-Based Paint Hazard Reduction Act of 1992, 42 U.S.C. § 4851.

### **Parties**

3. The Complainant, by delegation from the Administrator of the EPA, is the Chief, Radiation, Asbestos Lead and Indoor Programs Branch, EPA, Region VII.

4. The Respondents are University Courts Limited Partnership and Herman Slade. University Courts Limited Partnership owns and Herman Slade manages Hafner Court Apartments located at 8077 Hafner Court, University City, Missouri 63130.

### **Statutory and Regulatory Background**

5. Congress passed the Residential Lead-Based Paint Hazard Reduction Act of 1992 (the Act), 42 U.S.C. § 4852d, to address the need to control exposure to lead-based paint hazards. The Act amended Sections 401 to 410 of TSCA, 15 U.S.C. §§ 2681 to 2690. Section 1018 of the Act required that EPA and the Department of Housing and Urban Development (HUD) jointly issue regulations requiring the disclosure of known lead-based paint and/or lead-based paint hazards to persons leasing housing constructed before the phase out of residential lead-based paint use in 1978. EPA and HUD issued those regulations on March 6, 1996, which are codified at 40 C.F.R. Part 745, Subpart F. The regulations require in part that lessors of most residential housing built before 1978 disclose the presence of known lead-based paint and/or lead-based paint hazards; provide lessees with any available records or reports pertaining to the presence of lead-based paint and/or lead-based paint hazards; and provide lessees with a federally approved lead hazard information pamphlet. The failure or refusal to

comply with the regulations is a violation of the regulations as well as a violation of Section 409 of TSCA, for which a monetary penalty may be assessed.

#### **Alleged Violations**

6. The Complainant hereby states and alleges that Respondents have violated TSCA and federal regulations promulgated thereunder, as follows:

7. Respondents are, and at all times referred to herein, were "persons" within the meaning of TSCA.

8. Respondent University Courts Limited Partnership is the "lessor" and Respondent Herman Slade is the "agent," as those terms are defined by 40 C.F.R. § 745.103, of Hafner Court Apartments, 8077 Hafner Court, University City, Missouri 63130.

9. The property referenced above is "target housing" as that term is defined by 40 C.F.R. § 745.103 because the property is housing constructed before 1978.

10. Information collected from Respondents showed that Respondents entered into a contract to lease 8063A, Hafner Court on June 3, 2002.

11. Information collected from Respondents showed that Respondents entered into a contract to lease 8047, Hafner Court on May 10, 2002.

12. Information collected from Respondents showed that Respondents failed to provide the lessees with an EPA-approved lead hazard information pamphlet before the lessees were obligated under a contract to lease target housing.

13. Respondents' failure to provide an EPA-approved lead hazard information pamphlet is a violation of 40 C.F.R. §§ 745.107, 745.115 and Section 409 of TSCA, 15 U.S.C. § 2689 and thus Respondents are subject to civil penalties under Section 16 of TSCA, 15 U.S.C. § 2615.

### CONSENT AGREEMENT

14. For purposes of this proceeding, Respondents admit the jurisdictional allegations set forth above.

15. Respondents admit the factual allegations set forth above.

16. Respondents waive their right to a judicial or administrative hearing on any issue of fact or law set forth above.

17. Respondents and EPA agree to conciliate this matter without the necessity of a formal hearing and to bear their respective costs and attorney's fees.

18. Respondents certify by the signing of this Consent Agreement and Final Order that to the best of Respondents' knowledge, they are presently in compliance with all requirements of 40 C.F.R. Part 745, Subpart F.

19. Respondents consent to the issuance of the Final Order hereinafter recited and consent to the payment of a mitigated civil penalty in the amount of Three Thousand Eight Hundred Fifty Dollars (\$3,850) to be paid within thirty (30) days of the effective date of the Final Order.

20. Respondents understand that their failure to timely pay any portion of the mitigated civil penalty stated in Paragraph 19 above, may result in the commencement of a civil action in Federal District Court to recover the full remaining balance, along with penalties and accumulated interest. In such case, interest shall accrue thereon at the applicable statutory rate on the unpaid balance until such civil penalty and any accrued interest are paid in full. Additionally, as provided by 31 U.S.C. § 3717(e)(2), a six percent (6%) per annum penalty (late charge) may be assessed on any amount not paid within ninety (90) days of the due date.

### **FINAL ORDER**

Pursuant to the provisions of the Toxic Substances Control Act (TSCA), 15 U.S.C. § 2601, and based upon the information set forth in the Consent Agreement accompanying this Final Order, **IT IS HEREBY ORDERED THAT:**

1. Respondents shall pay a mitigated civil penalty of Three Thousand Eight Hundred Fifty Dollars (\$3,850) within thirty (30) days of the effective date of this Final Order. Such payment shall identify the Respondents by name and docket number and shall be by certified or cashier's check made payable to the "United States Treasury" and sent to:

EPA-Region VII  
c/o Mellon Bank  
P.O. Box 360748M  
Pittsburgh, Pennsylvania 15251.

2. A copy of the check shall simultaneously be sent to the following:

Regional Hearing Clerk  
U.S. Environmental Protection Agency  
Region VII  
901 N. 5<sup>th</sup> Street  
Kansas City, Kansas 66101; and,

Julie M. Van Horn  
Office of Regional Counsel  
U.S. Environmental Protection Agency  
Region VII  
901 N. 5<sup>th</sup> Street  
Kansas City, Kansas 66101.

3. Respondents and Complainant shall each bear their own costs and attorney's fees incurred as a result of this matter.

In the matter of  
University Courts Limited Partnership  
and Herman Slade

**RESPONDENTS**

**UNIVERSITY COURTS  
LIMITED PARTNERSHIP**

Date: 2-10-04

By: Herman Slade

Title: Partner

**HERMAN SLADE**

Date: 2-10-04

Herman Slade

Herman Slade, Manager  
Hafner Court Apartments

**COMPLAINANT  
UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY**

Date: 2/25/04

By: Lynn M. Slugantz  
Lynn M. Slugantz, Acting Chief  
Radiation, Asbestos, Lead and Indoor  
Programs Branch

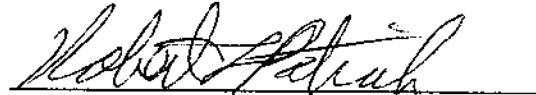
Date: 2/25/04

By: Julie M. Van Horn  
Julie M. Van Horn  
Office of Regional Counsel

*In the matter of  
University Courts Limited Partnership  
and Herman Slade*

**IT IS SO ORDERED.** This Order shall become effective immediately.

Date: February 25, 2004

  
Robert L. Patrick  
Regional Judicial Officer  
EPA, Region VII

IN THE MATTER OF University Courts Limited Partnership and Herman Slade, Respondents  
Docket No. TSCA-07-2004-0136

CERTIFICATE OF SERVICE

I certify that the foregoing Consent Agreement and Final Order was sent this day in the following manner to the addressees:

Copy hand delivered to  
Attorney for Complainant:

Julie Van Horn  
Senior Assistant Regional Counsel  
Region VII  
United States Environmental Protection Agency  
901 N. 5<sup>th</sup> Street  
Kansas City, Kansas 66101

Copy by U.S. Certified Mail,  
Return Receipt Requested, to:

Jill R. Rembusch  
Summers, Compton, Wells & Hamburg  
8909 Ladue Road  
St. Louis, Missouri 63124

Dated: 2/26/04



Kathy Robinson  
Regional Hearing Clerk